

REMARKS

This Amendment is in response to the Office Action mailed 05/04/2007. In the Office Action, claims 1-26 were rejected under 35 U.S.C. § 102, and claims 27, 28, 29, 30, 31, 32-34, 35-38 were rejected under 35 U.S.C. §103. Claims 10 and 14 have been cancelled without prejudice. Claims 1, 4, 9, 12, 15, 18, 21, 23, 27, 29 have been amended. Reconsideration is respectfully requested.

In general, Applicant respectfully traverses the outstanding rejections, most notably the rejections based on “inherency,” and respectfully requests the Examiner to reconsider the allowability of the claims based the amendments and remarks made herein.

Request for a Telephone Conference

Applicants respectfully request that the Examiner contact the attorney identified below to coordinate a telephone conference if the pending claims are still not considered to be allowable by the Examiner. The telephone conference would greatly facilitate the prosecution of the subject application.

Specification

The specification was objected based on an alleged informality with respect to the reference labeling for the receiver. Evidently, the scanning of the subject application read the reference label of “111” for the receiver as “ill”. We have confirmed that the filed copy is accurate, but we have included a copy of paragraph [0039] within this amendment in order to provide the correct wording for this paragraph.

Applicant respectfully requests that the Examiner withdraw the objection to the specification.

Rejection Under 35 U.S.C. §102

Claims 1-26 were rejected under 35 U.S.C. § 102(b) as being anticipated by Wasilewski (U.S. Patent No. 6,157,719). Applicant respectfully traverses the rejection because a *prima facie* case of anticipation has not been established.

As the Examiner is aware, to anticipate a claim, the reference must teach every element of the claim. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Vergegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the...claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Herein, all of the claim limitations are not found in Wasilewski.

For instance, with respect to claim 1, Applicant respectfully traverses the rejection and disagrees that the NVA storage 1303, which stores administrative storage (keys) which contains DHCT keys 1325, constitutes the non-volatile storage unit as claimed. In particular, as claimed, the non-volatile storage unit stores a table, referred to as a mating key lookup table, that is used to identify, based on the information received from the sender, either the server controlled by the supplier of the digital device or the trusted third party from which the at least one mating key is supplied. The NVA storage 1303 is not adapted to identify, based on information received from the sender, the server or trusted third party from which the mating key is supplied, especially since public/private keys are random or pseudo-random by nature. These keys provide no inherent identification of the sender. Otherwise, it would likely compromise the system.

Moreover, with respect to claim 4, Applicant respectfully submits that the NVA storage 1303 of Wasilewski should not be construed as the mating key lookup table. As claimed, the mating key lookup table comprises (i) a first group of entries forming a range of mating key generators for digital devices supplied by each supplier of a plurality of suppliers including the supplier, and (ii) a second group of entries corresponding to the first group of entries, each entry of the second group of entries including at least one mating key uniquely corresponding to and partially formed by one of the mating key generators. While the Examiner has interpreted ECM and EMM messages as types of mating key generators, it is noted that the mating key is formed by the mating key generator, which cannot be supported by Wasilewski especially when ECMS and EMMs are not used to form mating keys.

With respect to claims 2-3 and 5-10, Applicant respectfully traverses the rejection, but since these claims are dependent on claim 1, believed by Applicant to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicant reserves the right to present such arguments in an Appeal is warranted. Withdrawal of the §102 rejection as applied to claims 2-3 and 5-10 is respectfully requested.

With respect to independent claim 12, Applicant respectfully traverses the rejection and submits that the NVA storage 1303 does not constitute the non-volatile storage unit as claimed. Herein, Applicant has amended claim 12 to include the limitations of dependent claim 14 and to further include limitations that explicitly recite that the mating key is formed using at least a portion of the mating key generator. Claim 14 has been cancelled without prejudice.

With respect to claims 13 and 15-20, Applicant respectfully traverses the rejection, but since these claims are dependent on claim 12, believed by Applicant to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicant reserves the right to present such arguments in an Appeal is warranted. Withdrawal of the §102 rejection as applied to claims 13 and 15-20 is respectfully requested.

With respect to independent claim 21, Applicant respectfully traverses the rejection and submits that the secure content delivery system as claimed are not taught by (or even rendered obviousness by) Wasilewski. Herein, Applicant has amended claim 21 to include the limitations that the requested mating key is computed *using the information received from the headend*.

Emphasis added. Applicant respectfully requests the Examiner to reconsider the allowability of these claims based on these amendments.

With respect to claims 22-26, Applicant respectfully traverses the rejection, but since these claims are dependent on claim 21, believed by Applicant to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicant reserves the right to present such arguments in an Appeal if warranted. Withdrawal of the §102 rejection as applied to claims 21-26 is respectfully requested.

Hence, Applicant respectfully requests the Examiner to withdraw the outstanding §102 as applied to claims 1-26.

Rejection Under 35 U.S.C. § 103

Claims 27, 28, 30 and 32-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wasilewski in view of Turner (U.S. Patent No. 6,707,696). Applicant respectfully traverses the rejection because a *prima facie* case of obviousness has not been established.

As the Examiner is aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. *See MPEP §2143; see also In Re Fine, 873 F. 2d 1071, 5 U.S.P.Q.2D 1596 (Fed. Cir. 1988).* Herein, the combined teachings of the cited references fail to describe or suggest all of the claim limitations.

For instance, with respect to independent claim 27, the Office Action recites that Wasilewski fails to teach “the one-time programmable value being identical to a key stored in a digital device of a set-top box targeted to receive information encrypted with either the mating key or a derivative of the mating key.” Applicant agrees with the lack of teaching within Wasilewski, but disagrees with the Office Action that it is inherent to output a mating key based on the mating key generator and a one-time programmable value being identical to a key stored in a set-top box for a number of reasons.

First, the mating key generator is now construed by the Examiner to be a SRAM (306), in contrast with prior interpretations of the mating key generator being an ECM or EMMs (see page 4 of the Office Action). The mating key generator is a message, and is not a type of memory as alleged. Applicant respectfully requests the Examiner to reconsider the rejection simply due to the inconsistent claim construction.

Second, presuming that information (stored keys) within the SRAM (305) now are considered by the Examiner to constitute the mating key generator, we disagree that the cited references inherently teach a computation of a key based on such information with the one-time

programmable value. Neither Wasilewski nor Turner, alone or in any combination, suggests such a modification of keying information, especially where no data in the DATA region of the OTP memory is ever set to a known value. *See col. 2, lines 64-66 of Turner.* The combination of such data would create a key that would be difficult, if not impossible, to replicate for decryption purposes.

These same arguments apply to independent claim 32, namely that neither Wasilewski nor Turner, alone or in any combination, suggests “means for receiving a mating key from the mating key server, the mating key being computed based on a mating key generator and a one-time programmable value.” While the Office Action contends that column 3, lines 25-39 and 47-50 of Turner provide support for these limitations, Applicant disagrees because this section of Turner describes a power-up write controller that is not describe or suggest the computation of the mating key as claimed.

Therefore, Applicant respectfully submits that independent claims 27 and 32 are in condition for allowance, and dependent claims 28, 30 and 33-34 are also in condition for allowance. Withdrawal of the outstanding §103(a) rejection is respectfully requested.

Claims 29 and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wasilewski in view of Turner and Smeets (U.S. Patent No. 7,058,806). Applicant respectfully traverses the rejection because a *prima facie* case of obviousness has not been established. While the Examiner believes Wasilewski and Turner fail to teach computing the mating key as claimed, we disagree with the Examiner’s position that column 8, lines 18-31 and column 9, lines 12-20 of Smeets teaches computing the mating key as claimed.

Rather, Applicant respectfully submits that Smeet describes the storage of an established session key within a one-time programmable (OTP) part of flash program memory (104) to protect against a passive attacker. Such teachings are not directed to the operation of “computing the mating key by performing a computation on the mating key generator and the one-time programmable value to produce the mating key” as claimed. Applicant respectfully requests the Examiner to reconsider this outstanding rejection.

Claims 35-38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wasilewski in view of Smeets. Applicant respectfully traverses the rejection because a *prima facie* case of obviousness has not been established. While the Examiner believes Wasilewski fails to teach a method for different versions of the key and providing the different versions of the key to the plurality of provider, we disagree with the Examiner. Nowhere within Smeets is there discussion concerning the recovery of different versions of the key depending on which of a plurality of providers is requesting the key; and providing the different versions of the key to the plurality of providers adapted to use the key as either a mating key to encrypt digital content delivered to a targeted digital device or as a precursor key to derive the mating key to encrypt the digital content delivered to the targeted digital device. Applicant respectfully requests reconsideration of the allowability of the claims.

Conclusion

Applicant reserves all rights with respect to the applicability of the doctrine of equivalents. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: September 4, 20007

By /William W. Schaal/

William W. Schaal
Reg. No. 39,018
Tel.: (714) 557-3800 (Pacific Coast)

1279 Oakmead Parkway
Sunnyvale, CA 94085-4040